



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): James F. Zucherman

Appln. No.: 10/037,236

Confirm. No.: 6669

Filed: November 9, 2001

Title: INTER-SPINOUS PROCESS IMPLANT AND
METHOD OF DEFLATABLE SPACER

PATENT APPLICATION

Art Unit: 3731

Examiner: Reip, David Owen

Customer No. 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

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Name: Sheldon B. Meyer, Reg. No. 27,660

Signature Date: 11/23/ 2004.

(Signature)

RESPONSE TO REQUIREMENT FOR RESTRICTION
AND PRELIMINARY AMENDMENT

Commissioner for Patents
P.O. Box 1450
Art Unit 3743
Alexandria, VA 22313-1450

Sir:

Election:

This communication responds to the Office Action dated September 23, 2004, which provided a one-month period for Applicant's response. A one month extension of time is requested, and the necessary fee is included.

In response to the Examiner's Office Action dated September 23, 2004, it is respectfully submitted Species A is elected without traverse. As indicated by the examiner, species A includes Figs. 1a-8b.

The examiner instructed that, should applicant select species A, a further election of species must be made. Accordingly, applicant further respectfully submits that species

1 is elected. However, it is further submitted that species 1 corresponds to figure 1g, because both simply are different views of figure 1a, *i.e.*, species 1 is an end view of the spacer in figure 1a, and figure 1g is a cut-away view of that same spacer. See specification at page 4, line 18 – page 5, line 4. Therefore, it is respectfully submitted that figure 1g should be included with the election of species 1. Consequently, the elected Species A includes figures 1a, 1b, 1c, 1d, and 1e, as well as species 1 and figure 1g.

The combined selection of species A/1 reads on the following claims: [60-67, 97, 106]. Accordingly, the indicated claims are elected and the rest are cancelled. However, Applicant reserves the right to prosecute additional claims in any pending or future application(s).

New claims 108-118 are added, which claim the elected invention.